

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-03-KC-012
)	
AAT Communications Corporation)	NAL/Acct. No.200332560011
Owner of Antenna Structure #1005728 near)	
Harrisonville, Missouri)	FRN 0003477676
Iselin, New Jersey)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: February 27, 2003

By the Enforcement Bureau, Kansas City Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find AAT Communications Corporation, owner of antenna structure #1005728, apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000) for willful violation of Section 17.50 of the Commission's Rules (“Rules”).¹ Specifically, we find AAT Communications Corporation apparently liable for failure to repaint its antenna structure to maintain good visibility.

II. BACKGROUND

2. On January 13, 2003, the antenna structure bearing FCC antenna structure registration (“ASR”) number 1005728 and located near Harrisonville, Missouri was inspected by an agent of the Commission’s Kansas City Field Office. At the time of inspection, the structure’s paint had faded, reducing the visibility of the structure. In addition, black cabling on the outside of the structure covered the painted metal tower, resulting in poor visibility of the structure. The Commission’s ASR database showed this structure is owned by and registered to AAT Communications Corporation.

3. On January 23, 2003, the agent spoke with the Director of Engineering for AAT Communications Corporation who stated that a tower company had inspected the antenna structure on December 19, 2002, and recommended the structure be painted due to fading paint.

III. DISCUSSION

4. Section 17.50 requires antenna structure owners to repaint the structure as necessary to maintain good visibility. AAT Communications Corporation’s antenna structure registration #1005728 specifies lighting and painting for this structure that includes requirements that the structure be painted with alternating aviation orange and whites bands. On January 13, 2003, AAT Communications

¹ 47 C.F.R. § 17.50.

Corporation antenna structure #1005728 had faded paint and black cabling on two faces of the antenna structure obscuring the structure's paint. As a result of the faded paint and black cabling, the structure exhibited poor visibility.

5. Based on the evidence before us, we find AAT Communications Corporation willfully² violated Section 17.50 of the Rules by failing to repaint the antenna structure in accordance with the painting specifications associated with its antenna structure #1005728.

6. Pursuant to Section 1.80(b)(4) of the Rules,³ the base forfeiture amount for failure to repaint this structure is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁴ Considering the entire record and applying the factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Rules,⁶ AAT Communications Corporation is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful violation of Section 17.50 of the Rules by failing to repaint its antenna structure to maintain good visibility.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, AAT Communications Corporation. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

9. The response, if any, must be mailed to Federal Communications Commission, Office of the

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

³ 47 C.F.R. § 1.80(b)(4).

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁷ See 47 C.F.R. § 1.1914.

Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

12. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to Attention: John Stricko, 517 Route One South, Suite 5000, Islein, NJ 08830.

FEDERAL COMMUNICATIONS COMMISSION

Robert C. McKinney
Kansas City Office, Enforcement Bureau

Attachment